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Attorneys for Defendants/Counterclaimant AIG SPECIALTY INSURANCE COMPANY and  
THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA – OAKLAND DIVISION**

Albert D. Seeno Construction Co., Inc.; Albert  
D. Seeno Construction Co.; North Village  
Development, Inc.; Sanctuary North Village,  
LLC; Haven North Village, LLC; Sierra Bay  
Properties, Inc.; Discovery Builders, Inc.;  
Seecon Financial & Construction, Inc.; West  
Coast Home Builders, Inc; San Marco  
Properties, LLC; Black Diamond Land  
Investors, LLC; Gold Hill Village, LLC; DT  
Seeno Construction Co., Inc.; Mission Grove  
Development, LLC; Brighton Station  
Investment Properties, LLC; Schaefer Dublin  
Holdings, LLC; Schaefer Ranch Holdings, LLC;  
Schaefer Ranch Development, Inc.; Leona,  
LLC; Pyramid Land Investment, LLC; Ski Chi  
8, LLC.,

Plaintiffs/Counter defendants,

CASE NO.: 4:21-cv-02152-JST

**STIPULATION AND ~~PROPOSED~~ ORDER  
REGARDING DISCOVERY DEADLINE,  
DEPOSITION, AND ASSIGNMENT OF  
DISCOVERY REFEREE**

Date Action Filed: March 26, 2021  
Trial Date: February 19, 2024

1 vs.

2 AIG Specialty Insurance Company; Insurance  
3 Company of the State of Pennsylvania,

4 Defendants/Counterclaimants.

5 AND RELATED COUNTERCLAIM  
6

7 Plaintiffs and defendants and counterclaimants Insurance Company of the State of  
8 Pennsylvania, and AIG Specialty Insurance Company (hereinafter collectively “the Parties”) stipulate  
9 and agree as follows:

10 WHEREAS, defendants and counterclaimants had previously noticed the deposition of Julie  
11 Herman and had served a 30(b)(6) notice on each of the plaintiff entities in response to which plaintiffs  
12 had identified Ms. Herman as their corporate designee;

13 WHEREAS, on May 10, 2023, defendants and counterclaimants took the first day of  
14 deposition of Ms. Herman but did not complete it in the time available;

15 WHEREAS, for various health-related reasons (both on the part of plaintiff and defense  
16 counsel), it has been necessary on three occasions to continue the date for conclusion of Ms. Herman’s  
17 deposition as well as the fact discovery cut-off deadline to permit that deposition to be concluded (See  
18 Dkt. 139, 140, 151, 152, 172).

19 WHEREAS, Scott P. DeVries of Hunton Andrews Kurth LLP has recently substituted as  
20 counsel for Discovery Builders, Inc.; Black Diamond Land Investors, LLC; Gold Coast Pipelines, Inc.,  
21 fka DT Seeno Construction Co., Inc.; Mission Grove Development, LLC; Brighton Station Investment  
22 Properties, LLC; Schaefer Dublin Holdings, LLC; Schaefer Ranch Holdings, LLC; Schaefer Ranch  
23 Development, Inc.; Leona, LLC; Pyramid Land Investment, LLC; and Ski Chi 8, LLC (collectively  
24 “Discovery Builder Plaintiffs”);

25 WHEREAS, on August 29, 2023, Kirk A. Pasich and Jacquelyn M. Heitman of Pasich LLP  
26 appeared on behalf of Plaintiffs Albert D. Seeno Construction Co., North Village Development, Inc.,  
27 Sanctuary North Village, LLC, Haven North Village, LLC, Sierra Bay Properties, Inc., Seecon  
28

1 Financial & Construction Co., Inc., West Coast Home Builders, Inc., San Marco Properties, LLC, and  
 2 Gold Hill Village, LLC and subsequently substituted in as counsel of record for these entities as  
 3 ordered by the Court (Dkts. 168, 169, 180, 181, 185 & 186);

4 WHEREAS, those plaintiffs now represented by Hunton Andrews Kurth LLP and Pasich LLP  
 5 have determined and notified defendants that a different 30(b)(6) witness than Ms. Herman will need  
 6 to be designated and made available;

7 WHEREAS, defendants and counterclaimants will oppose any effort by those plaintiffs at this  
 8 juncture to designate a corporate representative other than Ms. Herman;

9 WHEREAS, most recently, the Parties agreed to continue Ms. Herman's deposition to  
 10 September 26, 2023 to conclude her volume II deposition, and entered a stipulation to extend the fact  
 11 discovery period for the limited purpose of concluding Ms. Herman's deposition on that date and the  
 12 Court granted the requested relief (Dkt. 184, 187);

13 WHEREAS, two hours into Ms. Herman's September 26, 2023 deposition, a discovery dispute  
 14 arose resulting in the deposition being terminated early;

15 WHEREAS, the current deadline to file a fact discovery related motion is October 3, 2023,  
 16 pursuant to Civil Local Rule 37-3;

17 WHEREAS, the Parties met and conferred over the discovery dispute concerning the  
 18 deposition and have agreed that Ms. Herman's deposition shall resume in the presence of Robert  
 19 Friedenberg or Michael Roberts (and to the extent neither are available, a mutually agreeable discovery  
 20 referee) from ADR Services, Inc. who shall preside over the deposition, and rule on objections;

21 WHEREAS, the parties agree that the discovery referee shall manage the proceedings at Ms.  
 22 Herman's deposition and shall be authorized to rule on discovery-related objections which, shall be  
 23 subject to review by the District Court and shall not in any event have any evidentiary effect in  
 24 proceedings before the District Court;

25 WHEREAS, the Parties have agreed that Ms. Herman's deposition will be proceed on or before  
 26 October 31, 2023 at defense counsel's office in Encinitas, California, or at a location to be determined  
 27 in San Diego County, at the sole discretion of the discovery referee;

1 WHEREAS, the Discovery Builder Plaintiffs requested the participation of a discovery referee  
2 at the continuation of the deposition, and Defendants declined to bear any of the associated expense,  
3 Discovery Builder Plaintiffs has agreed to pay the fees and expense associated with the discovery  
4 referee at that deposition;

5 WHEREAS, Defendants' Reply in Support of its pending Motion for Summary Judgment is  
6 currently due on October 27, 2023 and counsel for Defendants believes that he requires the completion  
7 of Ms. Herman's deposition at least 7 days before he is required file that Reply;

8 THEREFORE, the Parties stipulate and agree as follows:

9 1. The fact discovery deadline to conduct the deposition of Ms. Julie Herman is hereby  
10 continued to October 31, 2023.

11 2. The Parties agree to have the deposition overseen by Robert Friedenberg, Esq. or Michael  
12 Roberts, Esq. of ADR Services, Inc. (and to the extent neither are available, a discovery referee from  
13 ADR Services, Inc., who shall be selected by my mutual agreement on or before October 13, 2023)  
14 and paid for by counsel for the Discovery Builder Plaintiffs at the rates specified in the rate sheet  
15 provided to counsel by ADR Services, Inc..

16 3. The discovery referee's role and duties shall be limited to reviewing the second day of Ms.  
17 Herman's deposition testimony, attending the deposition, managing the proceedings in a manner  
18 consistent with federal rules, this Court's orders, and rules of professional conduct, and ruling on  
19 discovery objections throughout the duration of the deposition.

20 4. The discovery referee's orders shall be reflected in the deposition transcript and, in the  
21 absence of a further order by this court. There shall be no need for the preparation of other documents  
22 concerning orders, findings or otherwise.

23 5. Whereas the due date for Defendants' Reply in Support of its pending Motion for Summary  
24 Judgment is extended until November 8, 2023.

25 IT IS SO STIPULATED.  
26  
27  
28

Hunton Andrews Kurth LLP  
550 South Hope Street, Suite 2000  
Los Angeles, California 90071-2627

Dated: October 3, 2023

PASICH, LLP

By:

/S/

Jacquelyn M. Heitman

*Attorneys for plaintiffs and counterclaim  
defendants Albert D. Seeno Construction Co.,  
North Village Development, Inc., Sanctuary North  
Village, LLC, Haven North Village, LLC, Sierra  
Bay Properties, Inc., Seecon Financial &  
Construction Co., Inc., West Coast Home  
Builders, Inc., San Marco Properties, LLC, and  
Gold Hill Village, LLC*

Dated: October 3, 2023

HUNTON ANDREWS KURTH LLP

By:

/S/

Scott P. DeVries

*Attorneys for Plaintiffs and Counterclaim  
Defendants Discovery Builders, Inc.; Black  
Diamond Land Investors, LLC; Gold Coast  
Pipelines, Inc., fka DT Seeno Construction Co.,  
Inc.; Mission Grove Development, LLC; Brighton  
Station Investment Properties, LLC; Schaefer  
Dublin Holdings, LLC; Schaefer Ranch Holdings,  
LLC; Schaefer Ranch Development, Inc.; Leona,  
LLC; Pyramid Land Investment, LLC; and Ski Chi  
8, LLC*

Dated: October 3, 2023

HEROLD & SAGER

By:

/S/

Nicholas B. Salerno

*Attorneys for defendant Insurance Company of the  
State of Pennsylvania and defendant and  
counterclaimant AIG Specialty Insurance  
Company*

**PROPOSED ORDER**

Having reviewed the Parties' Stipulation, the Court hereby extends the fact discovery cut-off for the limited purpose to allow the deposition of Julie Herman to be concluded on or before October 31, 2023. All other previously set discovery deadlines will remain in place and are not modified.

Ms. Herman's deposition will be proceed on or before October 31, 2023 at defense counsel's office in Encinitas, California, or at a location to be determined in San Diego County, at the sole discretion of the discovery referee. The deposition will be overseen by Robert Friedenbergs or Michael Roberts (and to the extent neither are available, a mutually agreeable discovery referee from ADR Services, Inc.), who shall be selected on or before October 13, 2023 and paid for by counsel for the Discovery Builder Plaintiffs at the rates specified in the rate sheet provided to counsel by ADR Services, Inc.

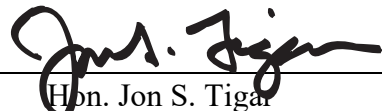
The discovery referee's role and duties shall be limited to reviewing Ms. Herman's volume II deposition, attending the deposition, managing the proceedings in a manner consistent with federal rules, this Court's orders, and rules of professional conduct and ruling on discovery objections throughout the duration of the deposition. The discovery referee's orders shall be reflected in the deposition transcript and, in the absence of a further order by this court. there shall be no need for the preparation of other documents concerning orders, findings or otherwise.

The due date for Defendants' Reply in Support of its pending Motion for Summary Judgment be and is extended to November 8, 2023.

IT IS SO ORDERED.

Dated: October 3, 2023

By: \_\_\_\_\_



Hon. Jon S. Tigar  
United States District Judge